

STATE OF TENNESSEE
DEPARTMENT OF HEALTH

IN THE MATTER OF:) BEFORE THE TENNESSEE BOARD
) OF MEDICAL EXAMINERS
VALERIE LOUISE AUGUSTUS, M.D.)
RESPONDENT) DOCKET NO: 17.18-191355A
)
)
GERMANTOWN, TENNESSEE)
TENNESSEE LICENSE NO. 28298)

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RECEIVED
SECRETARY OF STATE

**NOTICE OF CHARGES AND MEMORANDUM
OF ASSESSMENT OF CIVIL PENALTY AND COSTS**

The Division of Health Related Boards of the Tennessee Department of Health (hereinafter the “State”), by and through the Office of General Counsel, for cause of action against Valerie Louise Augustus, M.D. (“Respondent”) would respectfully show as follows:

I. JURISDICTION AND NOTICE OF RIGHTS

1. The Tennessee Board of Medical Examiners (hereinafter the “Board”) is responsible for the regulation and supervision of the practice of medicine in the State of Tennessee. *See* Tennessee Medical Practice Act, Tennessee Code Annotated Section (hereinafter “TENN. CODE ANN. §”) 63-6-101, *et seq.*
2. TENN. CODE ANN. § 63-6-214 grants the Board the duty and power to suspend or revoke or otherwise discipline a licensee who has violated the provisions of Title 63, Chapter 6, of the Tennessee Code Annotated.
3. A Respondent in a disciplinary action is entitled to be represented by legal counsel, to personally appear before the Board, to present witnesses, to have subpoenas issued, and to

receive notice of the charges at least thirty (30) days before being required to appear for a hearing. A Respondent who cannot afford legal counsel may be eligible for free or low-cost counsel. TENN. CODE ANN. § 4-5-101, *et seq.*

4. Proceedings for disciplinary action against a license holder are conducted in accordance with the Tennessee Uniform Administrative Procedures Act (hereinafter the “UAPA”), Title 4, Chapter 5, of the Tennessee Code Annotated. TENN. CODE ANN. § 63-6-216.
5. The Tennessee Department of Health, Division of Health Related Boards, and the Board may initiate a civil penalty assessment with respect to any person required to be licensed by any board, commission or agency attached to it against such person in an amount not to exceed one thousand dollars (\$1,000.00) for each separate violation of a statute, rule, or order pertaining to such board. TENN. CODE ANN. § 63-1-134(a) and TENN. COMP. R. & REGS. 0880-02-12.
6. Each day of continued violation by such person of the statute, rule, or order constitutes a separate violation. TENN. CODE ANN. § 63-1-134(a).
7. The Board has established by rule a schedule designating the minimum and maximum civil penalties which may be assessed. TENN. CODE ANN. § 63-1-134(b) and TENN. COMP. R. & REGS. 0880-02-12.
8. The contested case provisions of Title 4, Chapter 5, of the TENN. CODE ANN. govern proceedings for the assessment of civil penalties. TENN. CODE ANN. § 63-1-134 and TENN. COMP. R. & REGS. 0880-02-12.
9. The Division and the Board may initiate an assessment of costs for actual and reasonable costs of the prosecution of the matter incurred by the Office of General Counsel, Department of Health, including all attorney and paralegal time, all costs incurred by the

Bureau of Investigations in connection with the prosecution of the matter, and all costs incurred by the Administrative Law Judge(s), court reporters and witnesses, including, but not limited to, travel and lodging during the prosecution of this matter. TENN. CODE ANN. § 63-1-144; TENN. CODE ANN. § 63-6-214(k); and TENN. COMP. R. & REGS. 0880-02-12(j).

II. ALLEGATIONS OF FACT

10. Respondent has been at all times pertinent hereto licensed by the Board as a medical doctor in the State of Tennessee, having been granted Tennessee medical license number 28298 by the Board on June 14, 1996. Respondent's license currently has an expiration date of February 29, 2020.
11. Respondent violated the May 2018 Amended Final Order (hereinafter "Final Order") by failing to pay the \$50,000.00 cost assessment.
12. The Final Order required the Respondent to follow all recommendations from the Vanderbilt Comprehensive Assessment Program (hereinafter "VCAP"). The VCAP recommended that, during her probationary period, the Respondent engage in monthly individual psychotherapy supervision with a therapist approved by the Tennessee Medical Foundation (hereinafter "TMF"). Respondent violated the Final Order and the November 2018 Order of Compliance (hereinafter "Order of Compliance") by failing to engage in monthly individual psychotherapy supervision with a therapist approved by the TMF.
13. The Order of Compliance required the Respondent to cause the TMF to issue quarterly reports regarding the Respondent's psychotherapy supervision progress. The Respondent failed to cause the TMF to issue quarterly reports regarding her psychotherapy supervision progress.

III. CAUSES OF ACTION

The facts as alleged in Section II of this Notice of Charges and Memorandum for Assessment of Civil Penalties are sufficient to establish violations by Respondent of the following statutes or rules which are part of the provisions of the Tennessee Medical Practice Act, (TENN. CODE ANN. § 63-6-101, *et seq.*) for which disciplinary action before and by the Board of Medical Examiners is authorized:

14. The facts alleged in paragraphs eleven (11) through thirteen (13), *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(1):

Unprofessional, dishonorable or unethical conduct [.]

15. The facts alleged in paragraphs eleven (11) through thirteen (13), *supra*, constitute a violation of TENN. CODE ANN. § 63-6-214(b)(2):

Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or, any lawful order of the board issued pursuant thereto or any criminal statute of the state of Tennessee [.]

IV. CIVIL PENALTIES

16. The Tennessee Medical Practice Act provides guidance for use by the Board in assessing civil penalties pursuant to that legislation. TENN. CODE ANN. § 63-1-134 reads in pertinent part:

- (a) With respect to any person required to be licensed, permitted or authorized by any board, commission or agent attached to the division of health related boards, each respective board, commission or agency may assess a civil penalty against such person in an amount not to exceed one thousand dollars (\$1,000.00) for each separate violation of a statute, rule or order pertaining

to such board commission or agency. Each day of continued violation constitutes a separate violation.

(b) Each board, commission or agency shall by rule establish a schedule designating the minimum and maximum civil penalties that may be assessed under this section. In assessing civil penalties, the following factors may be considered:

- (1) Whether the amount imposed will be a substantial economic deterrent to the violator;
- (2) The circumstances leading to the violation;
- (3) The severity of the violation and risk of harm to the public;
- (4) The economic benefits gained by the violator as a result of noncompliance; and
- (5) The interest of the public.

17. Civil penalties may be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division. TENN. COMP. R. & REGS. 0880-02-.12(4)(d)(2).

V. NOTICE AND PETITION FOR RELIEF

The State, by and through counsel, hereby:

18. Issues to the Respondent a copy of this Notice of Charges, Memorandum of Assessment of Civil Penalties and Costs and Petition for Relief.
19. Gives notice to the Respondent of the following:
 - A. This matter will be presented as a contested case convening before the Board of Medical Examiners on January 15, 2020, beginning at 9:30 a.m. central time, or as soon thereafter as the Board may take up this matter, at the First Floor Hearing Rooms of the Health Related Boards, 665 Mainstream Drive, Nashville, Tennessee 37228, or at a location yet to be determined.

B. If the Respondent does not enter an appearance and defend, a default judgment may be entered. TENN. CODE ANN. § 4-5-309.

C. Respondent may retain counsel to represent her in this matter. TENN. CODE ANN. § 4-5-305. Lower cost legal counsel may be available through the various Legal Services of Tennessee for those who qualify.

20. Petitions that, at the hearing of this cause, the Board determine that Respondent is guilty of violating the provisions of TENN. CODE ANN. § 63-6-101 *et seq.*; determine whether and what amount of civil penalty is justified; and determine whether Respondent's license to practice as a medical doctor should be suspended, revoked, or otherwise disciplined.

21. Petitions, pursuant to TENN. CODE ANN. § 63-1-144, TENN. CODE ANN. § 63-6-214(k), and TENN. COMP. R. & REGS. 0880-02-.12(j), that at the hearing of this cause, the Board assess and collect the reasonable costs incurred in the prosecution of this case, including investigatory costs, upon finding that the licensee has violated the referenced provisions of the Tennessee Medical Practice Act. Pursuant to TENN. CODE ANN. § 63-1-144(b); the maximum amount of costs to be assessed shall not exceed Fifteen Thousand Dollars (\$15,000.00).

Respectfully submitted this 27th day of September, 2019.

Paetria Morgan w/ permission Fbc
Paetria Morgan, BPR No. 031772
Associate General Counsel
Office of General Counsel
665 Mainstream Drive
Nashville, TN 37243
(615) 741-1611

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document has been served upon Respondent, Valerie Louise Augustus, M.D., 2205 West Street, Germantown, TN 38138 by delivering same in the United States Mail, Certified Number 7017 3380 0000 9971 9558, return receipt requested, and United States First Class Postage Pre-Paid Mail, with sufficient postage thereon to reach its destination.

This 27th day of September, 2019.

Paetria Morgan w/ permission Fbc
Paetria Morgan
Associate General Counsel

LITIGATION TRANSMITTAL FORM
TENNESSEE DEPARTMENT OF HEALTH

TENNESSEE DEPARTMENT OF HEALTH

17.18-191355A
(AGENCY DOCKET #)

V.

VALERIE LOUISE AUGUSTUS, M.D.

2019006361 & 2019039641
(AGENCY CASE #)

AGENCY: Tennessee Department of Health, Board of Medical Examiners

HEARING DATE AND TIME: January 15, 2020; 9:30am

HEARING LOCATION: First Floor, 665 Mainstream Drive

MANNER OF CONDUCTING HEARING: Before the Board

CASE DESCRIPTION: unprofessional conduct

EXPEDITED OR SPECIAL ARRANGEMENTS: _____

HEARING TIME ESTIMATE: 4 hours

COURT REPORTER: _____

NAME, ADDRESSES AND PHONE NUMBERS OF PARTIES AND ATTORNEY
(including agency attorney);

Valerie Louise Augustus, M.D.
2205 West Street
Germantown, TN 38138
Respondent

Paetria P. Morgan
Associate General Counsel
Department of Health-OGC
665 Mainstream Drive, Second Floor
Nashville, Tennessee 37243
(615) 741-1611

OTHER INFORMATION:

Contested Case Transmittal Form to be filed with the initial case record no later than three (3) business days after : the Notice of Hearing is mailed; the case has been scheduled with the APD, if no hearing date has been set (unless waived by the Division).